

PREFERRED DRUG LIST REVISIONS

2009 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Allen M. Christensen

House Sponsor: James A. Dunnigan

LONG TITLE

General Description:

This bill amends the Medical Assistance Act.

Highlighted Provisions:

This bill:

► removes the automatic override to the preferred drug list in the state Medicaid program.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

26-18-2.4, as last amended by Laws of Utah 2008, Chapter 180

Be it enacted by the Legislature of the state of Utah:

Section 1. Section **26-18-2.4** is amended to read:

26-18-2.4. Medicaid drug program.

(1) A Medicaid drug program developed by the department under Subsection 26-18-2.3

(2)(f):

(a) shall, notwithstanding Subsection 26-18-2.3(1)(b), be based on clinical and



28 cost-related factors which include medical necessity as determined by a provider in accordance
 29 with administrative rules established by the Drug Utilization Review Board;

30 (b) may include therapeutic categories of drugs that may be exempted from the drug
 31 program; ~~§~~ → **[and]** ← ~~§~~

32 (c) may include placing some drugs, except the drugs described in Subsection ~~[(3)]~~ (2),
 33 on a preferred drug list to the extent determined appropriate by the department ~~§~~ → **[f]** ; and **[f]**

33a **(d) notwithstanding the requirements of Part 2, Drug Utilization Review Board, shall**
 33b **immediately implement the prior authorization requirements for a non-preferred drug that is**
 33c **in the same therapeutic class as a drug that is:**

33d **(i) on the preferred drug list on the date that this act takes effect; or**

33e **(ii) added to the preferred drug list after this act takes effect.**

33f **(e) except as prohibited by Subsections 58-17b-606(4) and(5), the prior authorization**
 33g **requirements established under Subsections (1)(c) and (d) shall permit a health care provider**
 33h **or the health care provider's agent to obtain a prior authorization override of the preferred**
 33i **drug list through the department's pharmacy prior authorization review process, which shall:**

33j **(i) provide either telephone or fax approval or denial of the request within 24 hours of**
 33k **the receipt of a request that is submitted during normal business hours of Monday through**
 33l **Friday from 8 am to 5 pm;**

33m **(ii) provide for the dispensing of a limited supply of a requested drug as determined**
 33n **appropriate by the department in an emergency situation, if the request for an override is**
 33o **received outside of the department's normal business hours; and**

33p **(iii) require the health care provider to provide the department with documentation of**
 33q **the medical need for the preferred drug list override in accordance with criteria established by**
 33r **the department in consultation with the Pharmacy and Therapeutics Committee, ←§ .**

34 ~~[(d)(i) except as prohibited by Subsections 58-17b-606(4) and (5), shall permit a~~
 35 ~~health care provider with prescriptive authority to override the restrictions of a preferred drug~~
 36 ~~list provided that the medical necessity for the override is documented in the patient's medical~~
 37 ~~file and by handwriting on the prescription "medically necessary - dispense as written"; and]~~

38 ~~[(ii) shall not permit a health care provider with prescriptive authority to override the~~
 39 ~~restrictions of a preferred drug list with any preprinted instructions for dispense as written, or~~
 40 ~~no substitutions allowed.]~~

41 ~~[(2) If the department implements a drug program under the provisions of Subsection~~
 42 ~~(1)(c), the department shall:]~~

43 ~~[(a) determine the percentage of prescriptions that are paid for by the department which~~

44 are overrides to the preferred drug list under Subsection (1)(d)(i);]
45 [~~(b)~~ include the information required by Subsection (2)(a) in the report required by
46 Subsection (2)(c); and]
47 [~~(c)~~ report its findings regarding the drug program to the Legislative Health and Human
48 Services Interim Committee by August 30, 2008, and to the Legislative Health and Human
49 Services Appropriations Subcommittee during the 2009 General Session.]
50 [~~(3)~~ (2) (a) For purposes of this Subsection [~~(3)~~ (2), "immunosuppressive drug":
51 (i) means a drug that is used in immunosuppressive therapy to inhibit or prevent
52 activity of the immune system to aid the body in preventing the rejection of transplanted organs
53 and tissue; and
54 (ii) does not include drugs used for the treatment of autoimmune disease or diseases
55 that are most likely of autoimmune origin.
56 (b) A preferred drug list developed under the provisions of this section may not
57 include:
58 (i) a psychotropic or anti-psychotic drug; or

59 (ii) an immunosuppressive drug.

60 (c) The state Medicaid program shall reimburse for a prescription for an
61 immunosuppressive drug as written by the health care provider for a patient who has undergone
62 an organ transplant. For purposes of Subsection 58-17b-606(4), and with respect to patients
63 who have undergone an organ transplant, the prescription for a particular immunosuppressive
64 drug as written by a health care provider meets the criteria of demonstrating to the Department
65 of Health a medical necessity for dispensing the prescribed immunosuppressive drug.

66 (d) Notwithstanding the requirements of Part 2, Drug Utilization Review Board, the
67 state Medicaid drug program may not require the use of step therapy for immunosuppressive
68 drugs without the written or oral consent of the health care provider and the patient.

68a **§→ (3) The department shall report to the Health and Human Services Interim Committee**
68b **and to the Health and Human Services Appropriations Subcommittee prior to November 1,**
68c **2010 regarding the savings to the Medicaid program resulting from the use of the preferred**
68d **drug list permitted by Subsection (1). ←§**

Legislative Review Note
as of 12-22-08 10:26 AM

Office of Legislative Research and General Counsel

S.B. 87 - Preferred Drug List Revisions - As Amended

Fiscal Note

2009 General Session
State of Utah

State Impact

Enactment of this bill will result in ongoing savings of \$1,474,300 General Fund and \$3,687,800 Federal Funds (\$5,125,600 total). Additionally there are savings in FY 2009 of \$122,900 General Fund and \$307,300 Federal Funds (\$430,200 total).

	<u>2009</u> <u>Approp.</u>	<u>2010</u> <u>Approp.</u>	<u>2011</u> <u>Approp.</u>	<u>2009</u> <u>Revenue</u>	<u>2010</u> <u>Revenue</u>	<u>2011</u> <u>Revenue</u>
General Fund	(\$122,900)	(\$1,474,300)	(\$1,474,300)	\$0	\$0	\$0
Federal Funds	(\$307,300)	(\$3,687,800)	(\$3,687,800)	\$0	\$0	\$0
Total	(\$430,200)	(\$5,162,100)	(\$5,162,100)	\$0	\$0	\$0

Individual, Business and/or Local Impact

Enactment of this bill likely will not result in direct, measurable costs and/or benefits for individuals or local governments. The savings listed above come through lower drug reimbursements to pharmacies.
